

K



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,082	03/08/2001	Frank F. Schmeyer	35352.0181/1	5338
25541	7590	10/04/2005	EXAMINER	
NEAL, GERBER, & EISENBERG SUITE 2200 2 NORTH LASALLE STREET CHICAGO, IL 60602			LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Office Action Summary*

Application No.

09/802,082

Applicant(s)

SCHMEYER, FRANK F.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 july 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3622

### **DETAILED ACTION**

1. Claims 17-23 have been examined. Application 09/802,082 (System and method for providing consumer rewards) has a filing date 03/08/2001 and Claims Priority from Provisional Application 60221468 (07/26/2000). Assignor: Transmedia Network Inc and Assignee: Idine Rewards Network Inc.

### ***Response to Amendment***

2. In response to Non Final Rejection filed 02/07/2005, the Applicant filed an Amendment on 07/06/2005, which amended claims 17-19, cancel claims 1-16 and filed Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received as part of the affidavit. Applicant's amendment overcame the Section 101 rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker (US 6,327,573).

As per claim 17, Walker teaches:

A method for allowing a consumer to receive benefits associated with an incentive program created by a business, the method comprising:

Art Unit: 3622

accepting *via a network* a registration of a consumer entitling the consumer to benefits of the incentive program, the registration including information indicative of a credit card of the consumer (see column 4, lines 50-65);

comparing credit card transactional information gathered when customers perform transactions at the business with the information indicative of the credit card of the consumer to determine if the consumer performed a transaction at the business (see column 11, line 7 – column 12, line 35);

and rewarding the consumer in accordance with the benefits of the incentive program if it is determined in the step of comparing that the consumer did perform a transaction at the business (see column 12, lines 13-35).

As per claim 18, Walker teaches:

A computer-readable media having instructions for determining if a transaction by a member consumer meets a requirement of a rewards program of a member business, the instructions performing steps comprising:

receiving transaction information including information identifying a consumer, information identifying a business, information pertaining to the purchase of a good or service by the consumer at the business, *and information pertaining to the use of credit card by the consumer at the business comprising an identifier for the business and a credit card number of the consumer* (see column 11, line 6 – column 12, line 35; column 19, lines 25-45);

determining if the consumer identified in the transaction information is the member consumer (see column 11, line 6 – column 12, line 35);

determining if the business identified in the transaction information is the member business (see column 11, lines 5-16; column 19, lines 25-45); and

if it is determined that the consumer is the member consumer and the business is the member business, determining if the information pertaining to the purchase of a good or service by the consumer at the business meets the requirement of the rewards program of the member business (see column 12, lines 25-35).

As per claim 19, Walker teaches:

The computer-readable media as recited in claim 18, wherein the identifier for the business is compared against a list of identifiers of member businesses to determine if the business is the member business and the credit card number *of the consumer* is compared against a list of credit card numbers of member consumers to determine if the consumer is the member consumer (see column 11, line 5 – column 12, line 35).

As per claim 20, Walker teaches:

The computer-readable media as recited in claim 19, wherein the information pertaining to the purchase of a good or service by the consumer at the business comprises a day of sale and a time of sale (see column 7, lines 16-26; column 9, lines 32-41).

As per claim 21, Walker teaches:

The computer-readable media as recited in claim 20, wherein the requirement of the rewards program comprises a specification that a transaction must occur on a predetermined day and the day of sale is compared against the predetermined day to

Art Unit: 3622

determine if the requirement of the rewards program was met (see column 9, lines 32-41).

As per claim 22, Walker teaches:

The computer-readable media as recited in claim 21, wherein the requirement of the rewards program comprises a specification that a transaction must occur during a predetermined time and that the member consumer make a reservation to transact business during the predetermined time, and the time of sale is compared against the predetermined time and the reservation time to determine if the requirements of the rewards program were met (see column 9, lines 30-40). It is inherent that Walker's incentive program would determine if users have redeemed reservations before giving said users awards, therefore making said incentive program fraud proof.

As per claim 23, Walker teaches:

The computer-readable media as recited in claim 22, wherein comparing the time of sale to the reservation time comprises examining the time of sale to determine if it falls within a window of time based upon the reservation time (see column 9, lines 30-40).

### ***Response to Arguments***

4. Applicant's arguments, see filed 07/06/2005, with respect to the rejection(s) of claim(s) 17-23 under Chen have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Walker. The Applicant argues that since the modifications done to the claims were either not material changes to the claims or

Art Unit: 3622

because they were related to elements that were already included in originally filed dependent claims, no additional search should be necessary. The Examiner answers that the Applicant filed an Affidavit(s) (Rule 131 or 132) which the Examiner found persuasive. However, prior to the Applicant filing said Affidavit, the Chen reference had a filing date (May 30, 2000) that was prior to Applicant's claimed invention filing date (July 26, 2000). However, with said Affidavit, the Chen reference is overcome (e.g. only with respect to the credit card limitation), therefore, making the Examiner performed a new search.

### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720. The examiner can normally be reached on 9:30-6:00.

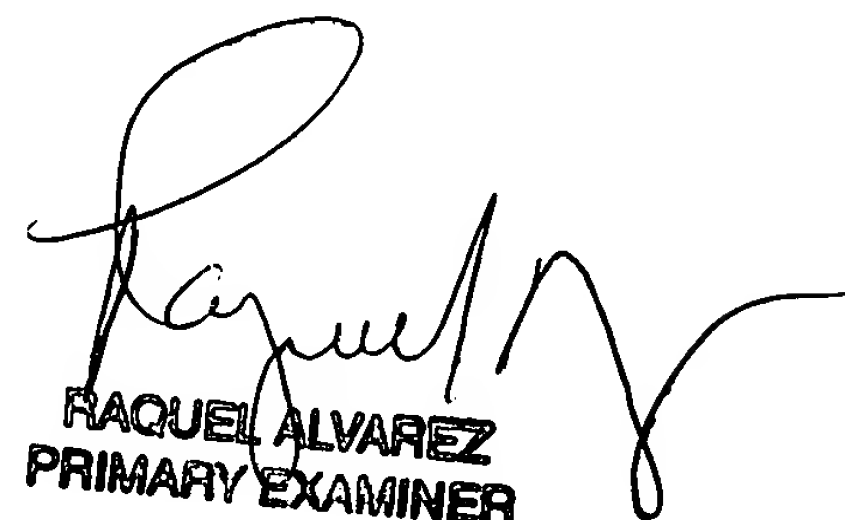
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The Examiner's Right fax number is 571-273-6720.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

September 22, 2005



RAQUEL ALVAREZ  
PRIMARY EXAMINER